

REMARKS

By this amendment, applicants have amended pages 12 and 26 of the specification to correct the informalities noted by the Examiner. Applicants have also canceled claims 15 - 34 without prejudice or disclaimer and have amended claims 29 - 33 and 35 - 39 to remove the multiple dependent claim format.

In view of the foregoing amendments to the specification, reconsideration and withdrawal of the objection to the disclosure in numbered section 1 of the office action are requested.

In view of the cancellation of claims 15 and 34 and the amendments to claims 29 - 33 and 35 - 39, it is submitted all of the claims now in application comply with the requirements of 37 CFR 1.74(c). Accordingly, reconsideration and withdrawal of the objection to claims 15 and 29 - 39 in numbered section 2 of the office action are requested.

Claims 1 - 3, 5 - 9, 11 - 13, 15 - 19, 22, 23, 26 - 30, 32 and 33 stand rejected under 35 USC 102(e) as allegedly being anticipated by United States Patent No. 6,452,915 to Jorgensen. Applicants traverse this rejection and request reconsideration thereof.

The Jorgensen patent has an actual filing date of July 9, 1999, but claims benefit of the filing date of provisional application number 60/092,452, filed July 10, 1998. On the other hand, the subject application is a national stage application of International application number PCT/EP99/07718, filed August 27, 1999 and claims benefit of the filing dates of priority application numbers GB 9818873.3, filed August 28, 1998 and GB 9819175.2, filed September 1, 1998. Certified copies of the priority documents have been received by the United States Patent and Trademark Office as the Elected Office (see form PCT/DO/EO/905 mailed June 22, 2001). The priority

applications are in the English language and, accordingly, the Examiner should be able to ascertain whether the presently claimed invention is supported, in the manner required by 35 USC 112, first paragraph, by the priority applications.

Noting that the actual filing date of the Jorgensen patent is subsequent to applicants' claims foreign priority dates of August 28 and September 1, 1998, the Jorgensen patent is not available as prior art under 35 USC 102(e) as of its actual filing date of July 9, 1999. The effective 102(e) date of the Jorgensen patent is July 10, 1998 only for subject matter in the Jorgensen patent that is supported in the disclosure of provisional application No. 60/192,452. A copy of provisional application No. 60/092,452 is attached for the Examiner's convenience.

The provisional application discloses a WINAAR wireless system for providing wireless broadband point-to-multi point connectivity and network access with a quality of service (QoS) enabling framework focusing on IP-centric applications.

The provisional application 60/092,452 discloses (chap. 4, QoS Considerations) how data flows from various applications are first divided into classes according to their QoS requirements and then the data flows are allocated into three queues: CBR, VBR and ABR according to data flow characteristics. Then these data flows are transmitted via a common radio link to a user station (chap. 6, Medium Access Control and Data Link Layer).

The idea of the present invention is that the radio operator offers several packet-switched connections with differentiated QoS levels. These QoS levels are predefined default levels, which are known to the user terminal, and hence to its applications. When one or more applications requiring radio connection is started in the terminal, a radio flow having appropriate quality of service characteristics for a particular application can be easily selected from the predefined default radio flows.

Thus, with respect to claim 1, 60/092,452 fails to disclose a method for supporting the quality of service in the packet data transmission in a radio network, whereby transmission over the air interface is in radio flows, the method comprising: selecting a radio flow having appropriate quality of service characteristics for the packet to be transmitted over the air interface from a selection of predefined default radio flows having different quality of service characteristics.

Thus, with respect to claim 7, 60/092,452 fails to disclose a radio access system for supporting the quality of service in data packet transmission over the air interface, the system comprising: a selection of predefined default radio flows having different quality of service characteristics and means for selecting a radio flow having appropriate quality of service characteristics for the packet to be transmitted over the air interface from the selection.

Thus, with respect to claim 13, 60/092,452 fails to disclose a communication device for use in a system which supports the quality of service in data packet transmission over the air interface and comprises a selection of predefined default radio flows having different quality of service characteristics, wherein the device is arranged to select a default radio flow having appropriate quality of service characteristics for the packet to be transmitted over the air interface from the selection over the air interface from a selection of predefined default radio flows having different quality of service characteristics.

Thus, with respect to claim 16, 60/092,452 fails to disclose a method for supporting the quality of service in the packet data transmission in a radio network, whereby transmission over the air interface is in radio flows, the method comprising: selecting a radio queue having appropriate quality of service characteristics for the

packet to be transmitted over the air interface from a selection of predefined default radio scheduling queues having different quality of service characteristics.

Thus, with respect to claim 18, 60/092,452 fails to disclose a radio access system for supporting the quality of service in data packet transmission over the air interface, the system comprising: a selection of predefined default radio flows having different quality of service characteristics and selecting a radio scheduling queue having appropriate quality of service characteristics for the packet to be transmitted over the air interface from the selection.

Thus, with respect to claim 19, 60/092,452 fails to disclose a communication device for use in a system which supports the quality of service in data packet transmission over the air interface and comprises a selection of predefined default radio flows having different quality of service characteristics, wherein the device is arranged to select a default radio scheduling queue having appropriate quality of service characteristics for the packet to be transmitted over the air interface from the selection.

In other words, provisional application No. 60/092,452 discloses how data flows are prioritized according to their QoS requirements and then transmitted over a single radio link to a user station. However, 60/092,452 does not disclose and would not have suggested that there would be a plurality of radio flows having different quality of service characteristics available, and then an appropriate radio flow would be selected for each data flow. One of ordinary skill in the art would not get any indications from 60/092,452 that different radio flows should be used for different applications/data flows in order to optimize bandwidth allocation and to select an appropriate QoS (and price) for each data flow connection.

Accordingly, provisional application No. 60/092,452 does not disclose and would not have suggested the presently claimed invention. Therefore, the Jorgensen patent, at least that portion having a 102(e) date of July 10, 1998 does not anticipate the presently claimed invention.

Claims 4, 10, 14, 20, 21, 24, 25, 31 and 34 - 39 stand rejected under 35 USC 103 as being unpatentable over Jorgensen in view of United States Patent Application Publication No. US2002-0067706 to Bautz et al. Applicants traverse this rejection and request reconsideration thereof.

The Bautz et al publication discloses a method and system for performing an optimized handover between a first base station and a second base station. However, it is submitted the Bautz et al publication does not remedy the basic deficiencies noted above with respect to Jorgensen. Accordingly, the presently claimed invention is patentable over the proposed combination of Jorgensen and Bautz et al.

Applicants note the Examiner has cited the patent to Kari as being pertinent to applicants' disclosure. However, since this patent was not applied in rejecting claims formerly in the application, further discussion of this patent is deemed unnecessary.

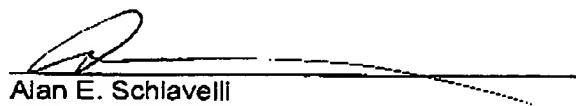
In view of the foregoing amendments and remarks, favorable reconsideration and allowance of all of the claims now in the application are requested.

To the extent necessary, applicants petition for an extension of time under 37 CFR 1.136. Please charge any shortage in the fees due in connection with the filing of this paper, including extension of time fees, to the deposit account of Antonelli,

Terry, Stout & Kraus, LLP, Deposit Account No. 01-2135 (Case: 1302.39635X00),
and please credit any excess fees to such deposit account.

Respectfully submitted,

ANTONELLI, TERRY, STOUT & KRAUS, LLP



Alan E. Schlavelli
Registration No. 32,087

AES/jla
(703) 312-6600